EXHIBIT D

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ATTORNEYS FOR AUSTRALIAN GOLD, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-- X

S & L VITAMINS, INC.,

Plaintiff/Counterclaim Defendant,

v. 05 CV 1217 (JS)(ML)

AUSTRALIAN GOLD, INC.,

Defendant/Counterclaim Plaintiff.

-- X

AUSTRALIAN GOLD, INC.,

Third Party Plaintiff,

v.

LARRY SAGARIN AND JOHN DOES, 1-10,

Third Party Defendants,

-- X

AUSTRALIAN GOLD'S RESPONSES TO FIRST SET OF INTERROGATORIES

Defendant/Counterclaimant, Australian Gold, Inc., ("Australian Gold"), by counsel, answers Plaintiffs' Interrogatories to Defendant, as follows:

GENERAL RESPONSE AND OBJECTIONS

Australian Gold objects to the Interrogatories served by Plaintiff to the extent that the Interrogatories attempt to impose upon Australian Gold any duties not specifically set forth in

Federal Rules of Civil Procedure. Australian Gold also objects to each Interrogatory that attempts to discover confidential or proprietary information of Australian Gold or information protected by the attorney-client privilege or work product doctrine.

Discovery has also not been completed on many of the subjects inquired about so that full and complete answers may not be able to be given at this time. This General Response and these objections are specifically incorporated into each of the individual responses that follow. Subject to and without waiving any objection, Australian Gold states as follows:

INTERROGATORY NO. 1: Identify all persons who have information concerning the subject matter of this litigation and set forth the subject of each witness's knowledge or information and whether they will be called to testify at trial.

ANSWER: Persons at Australian Gold with specific knowledge and information concerning the subject matter of this litigation include Leslie Hartlieb, John Keiffner, Tracy Ring, and Sarah Webster. These persons have knowledge concerning Australian Gold's business, its distribution system, its distributors, the products manufactured and offered for sale, Australian Gold's efforts to fight diversion on the internet and elsewhere, and plaintiffs' use of the internet to sell Australian Gold products, among other things. Australian Gold has not decided what witnesses it will call to testify at trial. Other persons with information concerning the subject matter of this lawsuit include representatives of S & L Vitamins, Inc., Larry Sagarin and any person or entity that has supplied S & L Vitamins with Australian Gold products.

INTERROGATORY NO. 2: Identify all communications between you and any person other than your attorneys about plaintiffs, plaintiffs' website, or plaintiffs' use of defendants' intellectual property, including trademarks or copyrights. For each such communication, identify the date, time, nature of the communication (telephone, letter, email), participants, and contents of the communication.

ANSWER: Australian Gold has had communications with its distributors regarding S & L Vitamins' website. Documents evidencing these communications shall be produced at a mutually agreeable time and location. Australian Gold also had a telephone conversation with Designer Skin about the website and whether Designer Skin was taking legal action against S & L Vitamins.

INTERROGATORY NO. 3: State in detail each fact or circumstance which defendant contends supports or shows that a likelihood of confusion exists between defendant and plaintiffs because of plaintiffs' use of the marks at issue in this action, and identify all documents and things evidencing a likelihood of confusion.

ANSWER: Objection. Australian Gold objects to this request to the extent that it calls for a legal opinion or the work product of Australian Gold's attorneys. Further, Australian Gold has not yet identified an expert witness who may be called upon to offer expert testimony in this area. Subject to and without waiving these objections, the facts and circumstances which show the likelihood of confusion include: the use of Australian Gold's trademarks in S&L Vitamins' metatags on the website, superimposing "BodySourceOnLine.com" over photographs of Australian Gold products, using Australian Gold's trademarks with Yahoo pay-for-placement service and in the metatags in a manner calculated to capture the consumer's initial interest and then divert the consumer to the Plaintiffs' own website, thereby impermissibly capitalizing on the goodwill of Australian Gold's trademarks, the use of Australian Gold's trademarks without permission or authorization, the fact that Australian Gold has a distribution system which prohibits the sale of its products over the internet and the sale of Australian Gold's products on the internet sends mixed messages to the general public regarding whether such sales are authorized, approved, endorsed or sponsored by Australian Gold, and complaints lodged by the general public to Australian Gold concerning the sale of the products by internet retailers.

INTERROGATORY NO. 4: For each trademark which defendant contends plaintiffs have used in an infringing manner, describe in detail the monetary damages suffered by defendant and identify all documents and things supporting these calculations.

ANSWER: Objection. Australian Gold objects to this interrogatory to the extent that it seeks information related to statutory damages under federal trademark law which may be available to Australian Gold, including Plaintiffs' profits and royalties. Australian Gold cannot make a full computation of the damages it contends that it has sustained because Plaintiffs have refused to provide Australian Gold with business records which would show Plaintiffs' sales of Australian Gold products. To the extent that Plaintiffs make these documents available to Australian Gold, Australian Gold will supplement this answer accordingly. Subject to and without waiving these objections, Plaintiffs' use of Australian Gold's trademarks has caused damage to Australian Gold's reputation and goodwill. Australian Gold promised its distributors and tanning salons that its products would only be available in tanning salons and would not be sold on the internet. Australian Gold has spent in excess of $1.5 million on maintaining its distribution system and training its employees, distributors and tanning salons on the proper use of its products. Further, Australian Gold reserves that right to designate an expert witness to testify as to the monetary damages of Australian Gold's goodwill and reputation.

INTERROGATORY NO. 5: For each trademark which defendant contends has been diluted by plaintiffs' actions, describe in detail the facts which support this contention, and describe the monetary damages suffered by defendant and identify all documents and things supporting these calculations.

ANSWER: See answers to Interrogatories Nos. 3 and 4.

INTERROGATORY NO. 6: Set forth in detail the damage to defendant's goodwill and reputation allegedly caused by plaintiffs' conduct as described in Paragraph 7 of defendant's counterclaim.

ANSWER: See answer to Interrogatory No. 4.

INTERROGATORY NO. 7: Set forth in detail the damage to defendant's "distribution system" allegedly caused by plaintiffs' conduct as described in Paragraph 7 of defendant's counterclaim.

ANSWER: The Plaintiffs have undermined Australian Gold's distribution system by illegally obtaining the products from one or more authorized distributors, through means which Australian Gold is still investigating. Upon information and belief, Plaintiffs have conspired with authorized distributors and/or other persons and entities to surreptitiously obtain the products and resell them on the internet. Australian Gold reserves the right to supplement this answer upon taking the deposition of Plaintiffs, Plaintiffs' suppliers and conducting further non-party discovery with respect to these suppliers. At the time of answering this interrogatory, none of Plaintiffs' suppliers had produced documents to Australian Gold's counsel and thus, Australian Gold cannot give a full and complete answer as to the extent of harm caused by Plaintiffs' conduct. See also answer to Interrogatory No. 4.

INTERROGATORY NO. 8: Identify all distributors from whom defendant contends plaintiffs obtained defendant's products.

ANSWER: Australian Gold does not know the identity of the distributors at this time, but its investigation continues.

INTERROGATORY NO. 9: Describe in detail, the training provided by defendant to distributors, retailers, and consumers, respectively.

ANSWER: In a typical year, Australian Gold trains over 30,000 employees, salon owners, and managers in over 600 presentations. Australian Gold has spent approximately $1.5 million dollars on training in previous years. Australian Gold requires all distributors to participate in training programs, and to make their sales associates available two times a year for training provided by Australian Gold. All authorized distributors are also required to hold two seminars each year to train tanning salons on the proper use of the products. Australian Gold has a training department that meets with retail tanning salons to properly train them and answer questions concerning the proper use of the products. Australian Gold also sends its trainers to retail salons to train salon employees. Australian Gold also hosts a yearly distributor's council where it offers further training to distributors.

INTERROGATORY NO. 10: Identify all complaints, lawsuits, government investigations, or regulatory actions taken against defendant related to the safety of defendant's Products.

ANSWER: Objection. This request is overly broad and is not limited in time or scope. Subject to and without waiving this objection. Australian Gold shall produce responsive documents at a mutually agreeable time and location.

INTERROGATORY NO. 11: Identify any contracts which place restrictions on the sale of defendant's products by retailers.

ANSWER: See Distributorship Agreements and Premier Salon Contracts which shall be produced at a mutually agreeable time and location, subject to the terms of a protective order to protect the confidential nature of this information.

INTERROGATORY NO. 12: Please identify each person you expect to call as an expert witness at the trial of this action and for each such person, describe in detail the nature of and grounds for the testimony, the facts and documents upon which the expert based his opinion, and any tests or surveys relied upon by expert.

ANSWER: Objection. Australian Gold has not yet identified its expert witnesses. Australian Gold will identify all expert witnesses in accordance with the case management deadlines. Australian Gold will supplement this interrogatory accordingly.

INTERROGATORY NO. 13: Identify any retailer that has been banned, prevented, restricted, or forbidden from purchasing Products as a result of its failure to train customers in the use of the Products.

ANSWER: Australian Gold is not aware of a situation where a tanning salon has refused or failed to train customers, so the answer is none.

INTERROGATORY NO. 14: Identify each use of defendant's trademarks by defendants in Meta Tags, as alleged in Paragraph 37 of defendant's counterclaim.

ANSWER: See documents produced.

INTERROGATORY NO. 15: State the basis for defendant's contentions in Paragraphs 40 and 90 of defendant's counterclaim that plaintiffs acted to "mislead."

ANSWER: Objection. Paragraphs 40 and 90 of Australian Gold's Second Amended Counterclaim do not reference the word "mislead." To the extent that this reference is to paragraph 42 of the Second Amended Counterclaim, S & L Vitamins' use of photographs of the products with its own name superimposed over the photographs impermissibly suggests a sponsorship, affiliation, endorsement or association between Australian Gold and Plaintiffs. The photographs that Plaintiffs display on the website are misleading because of the manipulation of the photographs.

INTERROGATORY NO. 16: Describe in detail all foreign laws which Products fail to comply with, as alleged in Paragraphs 47 and 54 of defendant's counterclaim.

ANSWER: Objection. This request calls for a legal conclusion as it seeks an analysis of foreign laws related to the sale of Australian Gold's U.S. products in foreign markets.

INTERROGATORY NO. 17: Describe in detail the damages suffered by defendant as a result of plaintiffs' alleged interference with its contracts with foreign distributors, as claimed in Paragraph 75 of defendant's counterclaim.

ANSWER: See answers to Interrogatory Nos. 4 and 9.

INTERROGATORY NO. 18: Describe in detail the "false pretenses" mentioned in paragraph 74 of defendant's counterclaim.

ANSWER: Objection. Australian Gold has not yet had the opportunity to depose representatives of S & L Vitamins and Larry Sagarin. Thus, the extent of their activities is still unknown at this time. Subject to and without waiving this objection, Australian Gold has conducted a diligent investigation to discover S & L Vitamins' sources for Australian Gold products and has been unable to discover that information. Thus, upon information and belief, Australian Gold suspects that S & L Vitamins is using a straw man, false names or other covert means to obtain the products.

INTERROGATORY NO. 19: Describe in detail the basis for defendant's claim in Paragraph 96 of its counterclaim that plaintiffs' website is "misleading in material aspects."

ANSWER: Objection. The Plaintiffs' website speaks for itself. Further, this interrogatory seeks counsel's work product. Subject to and without waiving these objections, see answer to Interrogatory No. 15.

INTERROGATORY NO. 20: State defendant's income and profits from the sale of its trademarked products for the last ten years and the sources of such income and profits.

ANSWER: Objection. This interrogatory is overly broad and vague with respect to the phrase "sources of such income and profits." Read literally, this interrogatory could seek the name of every transaction conducted by Australian Gold over the last ten years. To the extent that Plaintiffs wish to narrow and clarify this interrogatory, Australian Gold would be willing to reconsider any such interrogatory.

INTERROGATORY NO. 21: Describe in detail how plaintiffs' conduct caused defendant to suffer injury in its relations or prospective relations with distributors, as alleged in Paragraph 81 of defendant's counterclaim.

ANSWER: S & L Vitamins' conduct has undermined Australian Gold's distribution system. Australian Gold's business model is based upon having a closed distribution system. When products are sold on the internet, Australian Gold receives numerous complaints from distributors and tanning salons concerning the unauthorized sale of the products. If Australian Gold is unable to manage diversion, then relationships with distributors are compromised. One of the factors that has made Australian Gold very successful in the indoor tanning industry is that it has been able to maintain its distribution system and thus attract and maintain quality distributors.

INTERROGATORY NO. 22: Identify the individual or individuals who participated in responding to these interrogatories.

ANSWER: Leslie Hartlieb.

I certify under oath that the above responses to interrogatories are true and accurate to the best of my knowledge.

By: ______________________
President

As to objections,

____
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been deposited in the U.S. mail, first class postage prepaid, on the 20th day of January, 2006, addressed to:

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